

§ 35.3025

documentation must be made available to the Regional Administrator upon request.

(b) Certification that a construction grant project application complies with all delegable pre-award requirements consists of certification of compliance with the following sections of subpart I of this part: §35.2030 (Facilities planning); §35.2040 (a) and (b) (Grant application); §35.2042 (Review of grant applications); and §§35.2100 (Limitations on award) through and including 35.2125, except for §35.2101 (Advanced treatment reviews for projects with incremental capital advanced treatment costs of over \$3 million), §35.2112 (Marine waiver discharge applicants), and §35.2113 (final decisions under the National Environmental Policy Act).

§35.3025 Overview of State performance under delegation.

The Regional Administrator will review the performance of a delegated State through an annual overview program, developed in accordance with procedures agreed to in the delegation agreement (§35.3010(c)(7)). The purpose of the overview program is to ensure that both the delegated State and EPA efficiently and effectively execute the fiscal and program responsibilities under the Clean Water Act and related legislation. The overview program is comprised of three steps:

(a) *Developing a plan for overview.* The plan for overview specifies priority objectives, key measures of performance, and monitoring and evaluation activities (including State reporting to EPA) for the upcoming year. EPA and the State should agree to a plan for overview in advance of the upcoming year.

(1) Priority objectives will include both program and management objectives. In developing the State priority objectives, the national priorities identified by the Administrator on an annual basis must, at a minimum, be addressed and applied as appropriate to each State. In addition, the Regional Administrator and the State may identify other objectives unique to the situation in the State.

(2) For each priority objective, the plan for overview will specify key measures of performance (both quan-

40 CFR Ch. I (7–1–04 Edition)

titative and qualitative), identify which measures will require the negotiation of outputs, and enumerate the specific monitoring and evaluation activities and methods planned for the upcoming year.

(b) *Negotiating annual outputs.* Annually, the Region and delegated State will negotiate and agree upon outputs, where required by the plan for overview, to cover priority objectives for the upcoming year. This negotiation should also result in development of the work program required for the section 205(g) assistance application, pursuant to subpart A, §35.130 of this part. Where the assistance application covers a budget period beyond the annual overview program period, the assistance award may be made for the full budget period, contingent on future negotiation of annual outputs under this paragraph for subsequent years of the budget period.

(c) *Monitoring and evaluating program performance.* Monitoring and evaluation of program performance (including State reporting) is based on the plan for overview agreed to in advance, and should be appropriate to the delegation situation existing between the Region and State. It should take into account past performance of the State and the extent of State experience in administering the delegated functions. An on-site evaluation will occur at least annually and will cover, at a minimum, negotiated annual outputs, performance expected in the delegation agreement and, where applicable, evaluation of performance under the assistance agreement as provided in 40 CFR 35.150. The evaluation will cover performance of both the Region and the State. Upon completion of the evaluation, the delegation agreement may be revised, if necessary, to reflect changes resulting from the evaluation. The Regional Administrator may terminate or annul any section 205(g) financial assistance for cause in accordance with the procedures in subpart A, §35.150, and part 30.

(Approved by the Office of Management and Budget under control number 2000-0417)

§35.3030 Right of review of State decision.

(a) Any construction grant application or grantee who has been adversely